



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/566,002

11/29/2007

Peter (NMI) James

348-098

9359

1009

7590

11/03/2008

KING & SCHICKLI, PLLC
247 NORTH BROADWAY
LEXINGTON, KY 40507

EXAMINER

JOHNSON, STEPHEN

ART UNIT

PAPER NUMBER

3641

MAIL DATE

DELIVERY MODE

11/03/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/566,002	Applicant(s) JAMES, PETER (NMI)	
	Examiner Stephen M. Johnson	Art Unit 3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3641

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: This is regard to the claim limitations directed to “straps which are heat-welded in place” (see claim 19) and “the containers are interlinked with each other along the line of the wall by support webbing/strapping” (see claim 21).
2. Claims 13-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. In claim 13, line 5, it is not understood as to how the spaced apart wall containers 1, 2 can be considered to directly connected at the respective lower ends when they are clearly indirectly connected via inflatable base 5 (see fig. 1 and claim 14). Throughout the claims use of the phrases “further characterized in that” makes the claims indefinite because claims must be claimed in terms of the included structure and their associated interaction and not some characterization thereof. In claim 15, it is not understood as to how the support means can be accurately described as being of “generally triangular section” when structure 5 has no apex as required by a triangular configuration. Regarding claims 13 and 15, the word "means" is preceded by the word(s) "inflatable support cushion" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967). Regarding claim 23, the phrase "for example" or “e.g.” renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part

Art Unit: 3641

of the claimed invention. See MPEP § 2173.05(d). In claim 23, use of the phrase “some other material” makes the claim indefinite as to what materials are or are not intended to be included in such terminology.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 13-18 and 20-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Quade (034).

Quade (034) discloses a shock suppression apparatus comprising:

- a) a pair of inflatable spaced-apart walls; 13
- b) connected at their upper ends; 26; para. [0065]
- c) an inflatable support cushion means; 50
- d) connected together by strapping; 26; para. [0065]
- e) an inflatable base; 12
- f) a number of individual segments; 13, 17
- g) stitching or hook and loop strap connectors; para. [0044]
- h) a stepped configuration; 17; see fig. 3A, 3B or 17
- i) the containers are interlinked by webbing or strapping; para. [0044]
- and
- j) the support means contains liquid, air, or other material. paras. [0043]; [0049]

Art Unit: 3641

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Quade (034) in view of Reed (603).

Quade (034) applies as previously recited. However, undisclosed are Velcro straps that are heat-welded in place. Reed (603) teaches Velcro straps that are heat-welded in place (col. 3, lines 33-52). Applicant is substituting one type of attachment means for another in the attachment art as explicitly encouraged by the secondary reference (col. 3, lines 33-52 of Reed) with expected or predictable results. It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Reed to the Quade shock suppression device and have a shock suppression device with a different type of attachment means.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 13, 15, 17-18, and 20-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Wagner et al. (655).

Wagner et al. (655) disclose a shock suppression apparatus comprising:

a) a pair of inflatable spaced-apart walls; 16a, 16b

Art Unit: 3641

- b) connected at their upper ends; 28 abc
- c) an inflatable support cushion means; 12
- d) connected together by strapping; 28 abc; col. 4, lines 39-50
- e) a number of individual segments; see fig. 5
- g) hook and loop strap connectors; 28 abc; col. 5, line 68
- h) a stepped configuration; 16a, 16b (see fig. 2)
- i) the containers are interlinked by webbing or strapping; col. 5, lines 7-23
- and
- j) the support means contains liquid, air, or other material. col. 5, line 19

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 571-272-6877 and whose e-mail address is (Stephen.Johnson@uspto.gov). The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The Central FAX phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 800-786-9199.

/Stephen M. Johnson/
Primary Examiner, Art Unit 3641

SMJ
October 27, 2008